

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

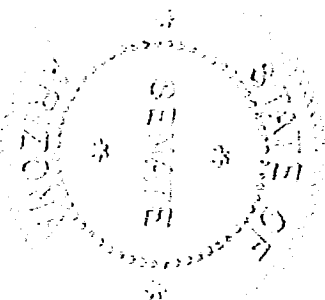
CHAPTER 298

HOUSE BILL 2650

AN ACT

AMENDING SECTION 9-461.06, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL PLANNING.

(TEXT OF BILL BEGINS ON NEXT PAGE)



Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-461.06, Arizona Revised Statutes, is amended to read:

9-461.06. Adoption and amendment of general plan; expiration and readoption

A. The general plan and any amendment to such plan shall be adopted or readopted in the manner provided in this article.

B. The governing body shall:

1. Adopt written procedures to provide effective, early and continuous public participation in the development and major amendment of general plans from all geographic, ethnic and economic areas of the municipality. The procedures shall provide for:

(a) The broad dissemination of proposals and alternatives.

(b) The opportunity for written comments.

(c) Public hearings after effective notice.

(d) Open discussions, communications programs and information services.

(e) Consideration of public comments.

2. Consult with, advise and provide an opportunity for official comment by public officials and agencies, the county, school districts, associations of governments, public land management agencies, the military airport if the municipality has territory in the vicinity of a military airport as defined in section 28-8461, other appropriate government jurisdictions, public utility companies, civic, educational, professional and other organizations, property owners and citizens generally to secure maximum coordination of plans and to indicate properly located sites for all public purposes on the general plan.

C. At least sixty days before the general plan or a portion, element or major amendment of a general plan is adopted, the planning agency shall transmit the proposal to the governing body and submit a copy for review and further comment to:

1. The planning agency of the county in which the municipality is located.

2. Each county or municipality that is contiguous to the corporate limits of the municipality or its area of extraterritorial jurisdiction.

3. The regional planning agency within which the municipality is located.

4. The department of commerce or any other state agency that is subsequently designated as the general planning agency for this state.

5. If the general plan or a portion, element or amendment of the general plan is applicable to territory in the vicinity of a military airport as defined in section 28-8461, the military airport.

6. Any person or entity that requests in writing to receive a review copy of the proposal.

1 D. If the municipality has a planning commission, the planning
2 commission shall hold at least one public hearing before approving a general
3 plan or any amendment to such plan. When the general plan or any major
4 amendment is being adopted, planning commissions in municipalities having
5 populations over twenty-five thousand persons shall hold two or more public
6 hearings at different locations within the municipality to promote citizen
7 participation. Notice of the time and place of a hearing and availability
8 of studies and summaries related to the hearing shall be given at least
9 fifteen and not more than thirty calendar days before the hearing by:

10 1. Publication at least once in a newspaper of general circulation
11 published or circulated in the municipality, or if there is none, the notice
12 shall be posted in at least ten public places in the municipality.

13 2. Such other manner in addition to publication as the municipality
14 may deem necessary or desirable.

15 E. Action by the planning commission on the general plan or any
16 amendment to the plan shall be transmitted to the governing body of the
17 municipality.

18 F. Before adopting the general plan, or any amendment to it, the
19 governing body shall hold at least one public hearing. Notice of the time
20 and place of the hearing shall be given in the time and manner provided for
21 the giving of notice of the hearing by the planning commission as specified
22 in subsection D of this section.

23 G. The adoption or readoption of the general plan or any amendment to
24 such plan shall be by resolution of the governing body of the municipality,
25 after notice as provided for in subsection D of this section. The adoption
26 or readoption of or a major amendment to the general plan shall be approved
27 by affirmative vote of at least two-thirds of the members of the governing
28 body of the municipality. All major amendments to the general plan proposed
29 for adoption by the governing body of a municipality shall be presented at
30 a single public hearing during the calendar year the proposal is made. The
31 general plan, or any amendment to the plan, shall be endorsed in the manner
32 provided by the governing body to show that it has been adopted by the
33 governing body. For purposes of this subsection, "major amendment" means a
34 substantial alteration of the municipality's land use mixture or balance as
35 established in the municipality's existing general plan land use
36 element. The municipality's general plan shall define the criteria to
37 determine if a proposed amendment to the general plan effects a substantial
38 alteration of the municipality's land use mixture or balance as established
39 in the municipality's existing general plan land use element.

40 H. If the municipality does not have a planning commission, the only
41 procedural steps required for the adoption of the general plan, or any
42 amendment to such plan, shall be those provided in this article for action
43 by the governing body.

1 I. A copy of the adopted general plan of a municipality shall be sent
2 to the planning agency of the county within which the municipality is
3 located, and such plan or any portion of the plan may be adopted as a part
4 of the county general plan.

5 J. A general plan, with any amendments, is effective for up to ten
6 years from the date the plan was initially adopted and ratified pursuant to
7 subsection L of this section, or until the plan is readopted pursuant to this
8 subsection and ratified pursuant to subsection L of this section or a new
9 plan is adopted pursuant to this subsection and ratified pursuant to
10 subsection L of this section, and becomes effective. On or before the tenth
11 anniversary of the plan's most recent adoption, the governing body of the
12 municipality shall either readopt the existing plan for an additional term
13 of up to ten years or shall adopt a new general plan as provided by this
14 article.

15 K. Except for general plans that are required to be submitted to the
16 voters for ratification pursuant to subsection L of this section, the
17 adoption or readoption of a general plan, and any amendment to a general
18 plan, shall not be enacted as an emergency measure and is subject to
19 referendum as provided by article IV, part 1, section 1, subsection (8),
20 Constitution of Arizona, and title 19, chapter 1, article 4.

21 L. The governing body of a city or town having a population of more
22 than two thousand five hundred persons but less than ten thousand persons and
23 whose population growth rate exceeded an average of two per cent per year for
24 the ten year period before the most recent United States decennial census,
25 and any city or town having a population of ten thousand or more persons,
26 shall submit each new general plan adopted pursuant to subsection J of this
27 section to the voters for ratification at an election held pursuant to
28 section 16-204. The governing body shall include a general description of
29 the plan and its elements in the municipal election pamphlet and shall
30 provide public copies of the plan in at least two locations that are easily
31 accessible to the public and may include posting on a site on a worldwide
32 public network of interconnected computers. If a majority of the qualified
33 electors voting on the proposition approves the new plan, it shall become
34 effective as provided by law. If a majority of the qualified electors voting
35 on the proposition fails to approve the new plan, the current plan remains
36 in effect until a new plan is approved by the voters pursuant to this
37 subsection. The governing body may resubmit the proposed new plan, or revise
38 the new plan as provided by this section, for subsequent submission to the
39 voters.

40 M. In applying an open space element or a growth element of a general
41 plan a municipality shall not designate private land or state trust land as
42 open space, recreation, conservation or agriculture unless the municipality
43 receives the written consent of the landowner or provides an alternative,
44 economically viable designation in the general plan or zoning ordinance,
45 allowing at least one residential dwelling per acre. If the landowner is the

1 prevailing party in any action brought to enforce this subsection, a court
2 shall award fees and other expenses to the landowner. A MUNICIPALITY MAY
3 DESIGNATE LAND AS OPEN SPACE WITHOUT COMPLYING WITH THE REQUIREMENTS OF THIS
4 SUBSECTION IF THE LAND WAS ZONED AS OPEN SPACE AND USED AS A GOLF COURSE
5 PURSUANT TO A ZONING ORDINANCE ADOPTED PURSUANT TO ARTICLE 6.1 OF THIS
6 CHAPTER BEFORE MAY 1, 2000 AND THE DESIGNATION DOES NOT IMPOSE ADDITIONAL
7 CONDITIONS, LIMITATIONS OR RESTRICTIONS ON THE GOLF COURSE, UNLESS THE LAND
8 IS STATE TRUST LAND THAT WAS NOT PLANNED AND ZONED AS OPEN SPACE PURSUANT TO
9 TITLE 37, CHAPTER 2, ARTICLE 5.1.

APPROVED BY THE GOVERNOR MAY 22, 2002.

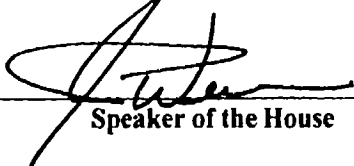
FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 23, 2002.



Passed the House April 8, 2002,

by the following vote: 47 Ayes,

1 Nays, 12 Not Voting

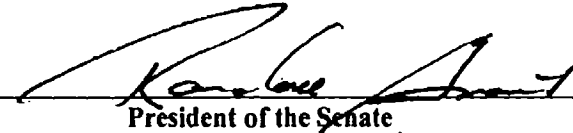

Speaker of the House

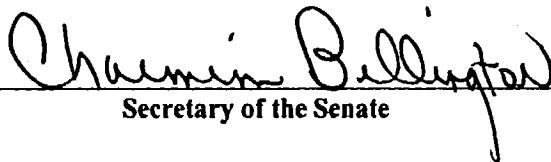

Chief Clerk of the House

Passed the Senate April 30, 2002,

by the following vote: 22 Ayes,

5 Nays, 3 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2650

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

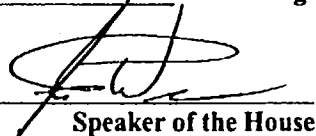
Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 16, 2002,

by the following vote: 54 Ayes,

3 Nays, 3 Not Voting


Speaker of the House

Norman L. Pryor
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of May, 2002,

at 3:00 o'clock P. M.


Secretary to the Governor

Approved this 22nd day of

May, 2002,

at 4:43 o'clock P. M.


Governor of Arizona

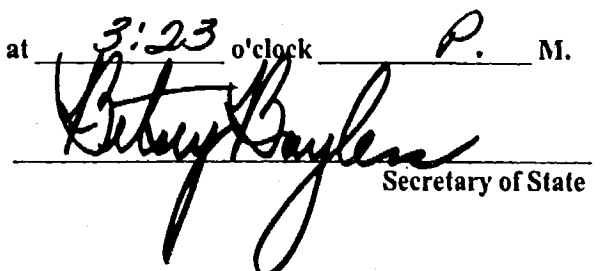
H.B. 2650

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of May, 2002,

at 3:23 o'clock P. M.


Secretary of State